

REQUEST FOR COUNCIL DISCUSSION

Date: 08/16/2010
Item No.: 13 . a

Department Approval



City Manager Approval



Item Description: Consider Adoption of Repeat Nuisance Calls Ordinance

BACKGROUND

City staff (Roseville HRA, Community Development and Police Department) have been working on creating an ordinance that addresses properties that have repeated issues and violations that require the use of city resources. Under this ordinance, the City would be able to impose and collect fees from the owner or occupant or both of property where the City must repeatedly respond to complaints.

Under the ordinance, a “nuisance service call” is defined as response to any violation of city code and certain state statutes. These violations include, but are not limited to public nuisances (including code enforcement violations), prostitution, gambling, controlled substances, firearms, and disorderly conduct. The City can impose a fee when the City has to respond to a violation three or more times within a period of 365 days. Staff would propose that the fine would be \$250 or more based upon the actual cost of the city response, up to \$2,000 for each separate call. In case of non-payment by a property owner, the fees will be placed on the property taxes pursuant to state statutes. In the case of a fee charged to an occupant of a problem property, non-payment will lead the city to pursue a judgment against the person. In addition, if a property has outstanding fees and require a license from the City to operate, the City will not grant the license until the fees are paid.

The ordinance requires that the City gives notice after the second call for service and exempts calls for medical emergencies and calls for domestic incidents. Additionally, owners of rental property may be exempted from a service fees if they commence an eviction proceeding against the tenant and enter into and comply with memorandum of understanding with regard to security with the Roseville Police Department. Similarly, large public accommodations, (i.e. bars, hotels, malls) may have fees waived if the property owner has entered into and complied with a memorandum of understanding with the Roseville Police Department.

The property owner or occupant has the right to appeal the imposition of the fee by requesting a hearing within 10 business days. The hearing will be conducted by a hearing officer appointed by the City Manager.

Staff is supportive of this ordinance as it is another tool in the “tool box” that the City can use to deal with problem areas of the City. By itself, the ordinance will not resolve all of the issues the City faces in certain areas, but it will send a message to property owners and occupants that creating or allowing unlawful activities on their property will not only have them dealing with the criminal justice system but it will also cost them financially.

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36 The Roseville HRA reviewed the proposed ordinance at its May 18th meeting and unanimously
37 recommended that the City Council approve the ordinance.

38 **POLICY OBJECTIVE**

39 Adoption of a repeat nuisance ordinance will help implement several major goals identified in the
40 Imagine Roseville 2025 visioning process, namely making “Roseville a desirable place to live, work,
41 and play”, making “Roseville a safe community”, and ensuring that “Roseville housing meets
42 community needs”. The repeat nuisance ordinance is also consistent with previous City Council
43 emphasis and direction with the City’s code enforcement efforts.

44 **FINANCIAL IMPACTS**

45 There will be additional staff time to administer the ordinance that will be incorporated into the normal
46 course of job duties. There will be new revenue coming into the City as a result of this ordinance, but
47 at this point, staff cannot be certain on the amount.

48 **STAFF RECOMMENDATION**

49 Staff recommends approval of the proposed ordinance. Representatives from the Police Department
50 and the Community Development Department will be available at the meeting to answer any questions

51 **REQUESTED COUNCIL ACTION**

52 Staff requests that the City Council review and provide input to staff about the draft ordinance. Staff
53 will bring the draft ordinance forward at a future meeting for final consideration.

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Prepared by: Patrick Trudgeon, Community Development Director (651) 792-7071

Attachments: A: Draft Repeat Nuisance Calls Ordinance

City of Roseville
ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 511 ESTABLISHING A REPEAT NUISANCE
SERVICE CALL FEE AND ADDING A REPEAT NUISANCE SERVICE CALL FEE TO
SECTION 314.05.

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1: Chapter 511 is hereby added to the Roseville City Code:

511.01: Purpose and Application

511.02: Definition of Nuisance Service Call

511.03: Repeat Nuisance Service Call Fee

511.04: Notice

511.05: Delinquent Payment and Fee Recovery

511.06: Enforcement

511.07: Right to Appeal

511.08: Legal Remedies Nonexclusive

511.09: Exceptions and Affirmative Defenses

511.01: PURPOSE AND APPLICATION

The purpose of this Chapter is to protect the public safety, health and welfare and to prevent and abate repeat service response calls by the City to the same property or location for nuisance service calls, as defined herein, which may prevent police, public safety, or other city services from reaching other residents of the City.

It is the intent of the City, by the adoption of this Chapter, to impose and collect service call fees from the owner or occupant, or both, of property to which City officials must repeatedly respond for any repeat nuisance event or activity that generates extraordinary costs to the City. The repeat nuisance service call fee is intended to cover cost over and above the cost of providing normal law or code enforcement services and police protection.

This Chapter shall apply to all owners and occupants of private property which is the subject or location of the repeat nuisance service call by the City.

This Chapter shall apply to any repeat nuisance service calls as set forth herein made by a City of Roseville employee, including a police officer, community service officer, firefighter, and/or code enforcement employee.

511.02: DEFINITION OF NUISANCE CONDUCT

For purposes of this Chapter, the term "nuisance conduct" means any activity, conduct or condition occurring within the City that unreasonably annoys, injures or endangers the safety,

health, morals, comfort or repose of any member of the public, or will tend to alarm, anger or disturb others. Nuisance conduct includes but is not limited to a response to the following:

1. Any activity, conduct, or condition deemed as a public nuisance under any provision of the City Code or Minnesota State laws;
2. Any activity, conduct, or condition in violation of any provision of the City Code;
3. Any conduct, activity or condition constituting a violation of Minnesota state laws prohibiting or regulating prostitution, gambling, controlled substances, use of firearms; and/or
4. Any conduct, activity, or condition constituting disorderly conduct as stated under Chapter 609 of Minnesota Statutes.

511.03: REPEAT NUISANCE SERVICE CALL FEE

The City may impose a repeat nuisance service call fee upon the owner or occupant of private property if the City has rendered services or responded to the property on three or more occasions within a period of (365) days in response to or for the abatement of nuisance conduct. The repeat nuisance service call fee shall be as established by the City Fee Schedule in Section 314.052 of the City Code.

511.04: NOTICE

No repeat nuisance service call fee may be imposed against an owner or occupant of property without first providing such owner or occupant with written notice of the previous nuisance service calls prior to the latest nuisance service call rendered by the City upon which the fee is imposed. The written notice shall:

1. Identify the nuisance conduct that has occurred on the property, and the dates of the nuisance conduct activity or condition;
2. State that the owner or occupant may be subject to a repeat nuisance service call service fee if a third nuisance call is rendered to the property for any further nuisance conduct;
3. State that the City has the right to seek other legal remedies or actions for abatement of the nuisance conduct; and
4. Be served by certified letter upon such owner or occupant at the last known address of such person.

511.05: DELINQUENT PAYMENT AND FEE RECOVERY

If a repeat service call fee is not paid within thirty (30) days after a billing statement is sent by the City to the owner or occupant of the property responsible for the payment of the fee at such persons last known address, it will be deemed delinquent and a ten percent (10%) penalty shall be added to the repeat nuisance service call fee. If the repeat nuisance service call fee becomes delinquent, the City shall have, in addition to all other remedies available at law or in equity for the collection of such fee, the following remedies:

1. Seek a monetary judgment and collection thereof from such owner and/or occupant,
or
2. Assess the property which was the subject of the nuisance conduct pursuant to Minn.
Stat. § 429.101.

Failure of a person to pay a repeat nuisance service call fee shall be grounds for the denial of a license which is related to the nuisance conduct for which the repeat nuisance service call fee was imposed.

511.06: ENFORCEMENT

The City Council authorizes the Police Chief (or his or her designee), Fire Chief (or his or her designee), or the Community Development Director (or his or her designee), to administer and enforce this Chapter.

511.07: RIGHT TO APPEAL

When the City mails the billing statement for the repeat nuisance service call fee, the City will inform the owner or occupant of their right to request a hearing.

The owner or occupant upon whom the fee is imposed must request a hearing within ten (10) business days of the mailing of the billing statement, excluding the day the statement is mailed. The request for a hearing must be in writing and delivered to the City Manager's Office. The hearing will occur within fourteen (14) days of the date of the request. If the owner or occupant fails to request a hearing within the time and in the manner required under this Section, the right to a hearing is waived.

The hearing shall be conducted by a hearing officer selected by the City Manager in an informal manner and the Minnesota Rules of Civil Procedure and Rules of Evidence shall not be strictly applied. After considering all evidence submitted, the hearing officer shall make written Findings of Fact and Conclusions regarding the nuisance conduct and the imposition of the repeat nuisance service call fee. The findings and conclusions shall be served upon the owner or occupant by certified letter within ten (10) days of the notice of hearing.

If the owner or occupant fails to appear at the scheduled hearing date, the right to a hearing is waived. Upon waiver of the right to a hearing, or upon the hearing officer's written findings of fact and conclusions that the repeat nuisances service call service fee is warranted hereunder, the owner or occupant shall immediately pay the fee imposed.

511.08: LEGAL REMEDIES NONEXCLUSIVE

Nothing in this Chapter will be construed to limit the City's other available legal remedies, including criminal, civil, injunctive or others, for any violation of the law which may constitute nuisance conduct.

511.09: EXCEPTIONS AND AFFIRMATIVE DEFENSES

MEDICAL EMERGENCIES: Repeat nuisance service call fees shall not be imposed for any medical-related emergency response except for medical-related emergencies that are violations of Minn. Stat. Section 609.78 Subd. 4 (Misuse of 911)

DOMESTIC INCIDENTS: Repeat nuisance service call fees shall not be imposed against the victim for a response to circumstances involving domestic assault incidents or order for protection violations.

RENTAL PROPERTIES: At the discretion of City officials, repeat nuisance service call fees may be waived against property owner who has:

1. Commenced eviction proceedings against the tenant or tenants responsible for the nuisance conduct, conditions or characteristics, or
2. Entered into and complied with a memorandum of understanding with the Roseville Police Department that addresses the underlying causes for the nuisance conduct and provides a course of action to alleviate the nuisance conduct.

LARGE PUBLIC ACCOMMODATIONS: At discretion of City officials, repeat nuisance service call fees may be waived against a property owner who has entered into and complied with a memorandum of understanding with the Roseville Police Department that address the underlying causes for the nuisance conduct and provides a course of action to alleviate the nuisance conduct.

SECTION 2: The following is hereby added to Section 314.052 of the Roseville City Code:

Fee/Charge Description	City Code	Amount
Third call to property for nuisance conduct within a 365 day period	511	\$250.00
Each call after third call to property for nuisance conduct within a 365 day period	511	\$250.00 plus the cost of enforcement response (which shall be determined by multiplying the staff hourly rate times 1.9 times the number of hours expended in making the call, for all employees involved in responding to the violation), the total of which fee shall not exceed \$2,000.00 per call.

SECTION 3: Effective date. This ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Roseville this _____ day of _____, 20_____.

Ordinance Adding Chapter 511 Establishing a nuisance call fee resulting from nuisance conduct and adding a nuisance service call fee to section 314.05

(SEAL)

CITY OF ROSEVILLE

BY: _____
Craig D. Klausung, Mayor

ATTEST:

William J. Malinen, City Manager